



09.08.2018

Petitioner in person present. Due to summer vacations, the case is adjourned. To come up for the same on 04.10.2018 at camp court Swat.


Reader

04.10.2018

Petitioner Sher Shah in person present. Mr. Muhammad Alam, ADO alongwith Mr. Usman Ghani, District Attorney for respondents present. The above named representative of the respondents stated that judgment of the Tribunal has been implemented and submitted order dated 08.08.2018, copy of which is handed over to the petitioner. To come up for further proceedings/arguments on 05.11.2018 before the S.B at camp court Swat.


Member
Camp Court Swat

05.11.2018

Due to retirement of the Hon'ble Chairman Service Tribunal is incomplete. Tour to Camp Court Swat has been cancelled. To come up for the same on 03.12.2018 at camp court Swat.


Reader

FORM OF ORDER SHEET

Execution Petition No. 168/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	30.05.2018	<p>The Execution Petition of Mr. Sher Shah submitted to-day by Mr. Shamsul Hadi Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 30/5/18</p>
2-		<p>This Execution Petition be put up before S. Bench at on 12-06-2018</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
12.06.2018		<p>Petitioner in person present. Notice be issued to the respondents for implementation report for 03.07.2018 before S.B at Camp Court, Swat as the execution petition pertain to the territorial jurisdiction of Malakand Division.</p> <p style="text-align: right;"><i>[Signature]</i> (Muhammad Amin Khan Kundi) Member</p>
03.07.2018		<p>Petitioner in person present. None is present as representative of the respondents. However, Mr. Usman Ghani District Attorney on their behalf present: Judgment of this Tribunal has not been implemented so far. Fresh notices be issued to the respondents. Case to come up for implementation report on 09.08.2018 before S.B at camp court, Swat.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman Camp court, Swat</p>

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.**

Execution Petition No. 168 of 2018.

In

Service Appeal No. 529/2016.

Shir Shah D.MPetitioner.

V E R S U S

District Education Officer(Male) Kohistan and other...Respondents.

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Petitioner

Through



Shams ul Hadi

Advocate, Peshawar.

Dated: 22/05/2018.

Office: Near Al-Falah Mosque, Hayat
Abad, Mingora.

Cell No. 0347-4773440.

**BEFORE THE KHYBER PAKHTOON KHWA SERVICES
TRIBUNAL, PESHAWAR.**

Execution Petition No 168 /2018.

In

Service Appeal No. 529/2016.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 607

Dated 30/05/2018

Shir Shah (D.M)

R/O Village Shara Tehsil Matta District Swat.....Petitioner.

V E R S U S

1. District Education Officer(Male) Kohistan.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.....Respondents

**PETITION FOR IMPLEMENTATION OF THE
ORDER/JUDGMENT DATED:08.11.2017 OF THIS
HONOURABLE TRIBUNAL DELEVERED IN ABOVE TITLE
SERVICE APPEAL.**

Respectfully Sheweth:

1. That initially the petitioner filed the above title service appeal before this hon;ble tribunal which was decided in favour of the petitioner vide judgment dated:08.11.2017, with clear directions to the respondents.(Copy of judgment is attached)
2. That the petitioner communicated the judgment to respondents through written application and as such waited for the implementation of the judgment but till

Filed to-day

Registrar

30/5/18

date the same has not been implanted nor any positive steps has been taken by the respondents for implementation.

It is, therefore, most humbly prayed that On acceptance of this petition respondents may kindly be directed to implement the judgment dated:08.11.2017 passed in service appeal No.529/2016 letter in spirit.

Petitioner

Through



Shams ul Hadi

Advocate, Peshawar.

Dated: 21/05/2018

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Execution Petition No. _____ of 2018.

In

Service Appeal No. 529/2016.

Shir Shah D.MPetitioner.

V E R S U S

District Education Officer(Male) Kohistan and other...Respondents.

AFFIDAVIT

I, **Shams ul Hadi**, Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the contents of the **petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



ADVOCATE

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.**

Execution Petition No. _____ of 2018.

In

Service Appeal No. 529/2016.

Shir Shah D.MPetitioner.

V E R S U S

District Education Officer(Male) Kohistan and other...Respondents.

ADDRESSES OF THE PARTIES

PETITIONER:

Shir Shah (D.M)

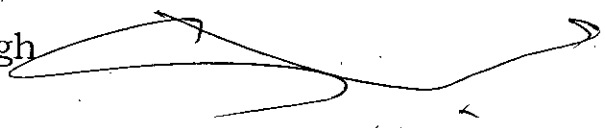
R/O Village Shara Tehsil Matta District Swat.

Cell No. 0345:2772777.

RESPONDENTS:

1. District Education Officer(Male) Kohistan.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar

Petitioner

Through 

Shams ul Hadi

Advocate, Peshawar.

Dated: 23/01/2018

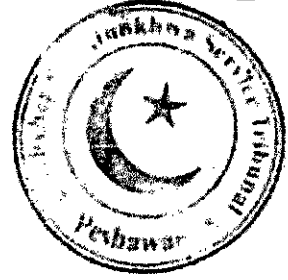
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

(5)

Service Appeal No.529/2016

Date of Institution.. 19.05.2016

Date of decision... 08.11.2017



Shir Shah (DM) R/O village Sahra, Tehsil Matta District Swat. ... (Appellant)
Versus

1. District Education Officer(M) Kohistan and 2 others. ... (Respondents)

MR. SHAMSUL HADI,
Advocate

For appellant.

MR. KABEERULLAH KHATTAK,
Addl. Advocate General

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUGHAL,

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service due to absence on 22.01.2016
against which he filed departmental appeal on 04.02.2016 which was not decided
within the statutory period and thereafter the appellant filed the present service
appeal within time. During the pendency of the present service appeal, his
departmental appeal was rejected on 26.09.2016. The appellant was
adjusted/posted vide order dated 30.07.2015 in GMS Summar Nala. Thereafter, he
tried to assume the charge against the said post but the Head Master of the school
did not accept the charge report rather gave a certificate that another person
namely Faizul Haq was already performing his duty against the said post right

ATTESTED

Signature of the Appellant
Khyber Pakhtunkhwa
Service Tribunal

Signature of the Chairman

from 24.5.2014. Thereafter, the department issued a show cause to the appellant tentatively proposing the imposition of penalty of removal from service with recovery of salary. The said show cause notice was duly replied. Then another show cause notice dated 18.12.2015 was issued wherein the tentative penalty was reproduced which was also replied by the appellant and thereafter, the impugned order was passed.

ARGUMENTS


3. The learned counsel for the appellant argued that neither regular enquiry was dispensed with nor any regular enquiry was conducted by the competent authority which is gross illegality.


4. On the other hand, the learned Additional Advocate General argued that all procedural formalities were fulfilled and that the appellant was a habitual absentee and there was a complaint against the appellant on basis of which the proceedings were initiated. That he was given personal hearing as well.

CONCLUSION

5. Under the rules there are three procedures in such like cases. One is Rule 9 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, second is holding of regular enquiry and third is dispensing with regular enquiry. None of the above procedure has been followed by the authority. The argument of the learned AAG regarding filing of complaint against the appellant all the more required holding of enquiry as complaints are to be probed through evidence. But the authority has neither probed the complaint by holding regular enquiry nor had dispensed with holding of regular enquiry and the whole proceedings are illegal. Finally the impugned order has been passed retrospectively which is another illegality.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


C.T.C.

(7)

Consequently, this appeal is accepted, the appellant is reinstated in service and the department is at liberty to hold de novo enquiry in accordance with the rules. The intervening period be treated as leave of the kind due. Parties are left to bear their own costs. File be committed to the record room.

SDF

Muhammad Hamid Mughal
Member

SDF
Muhammad Farid Khan
Chairman
Camp Court, Sialkot

ANNOUNCED
08 11 2017

Certified true copy
K...
Registrar

Date of...	09-11-2017
...	1600
...	10.00
...	—
...	10.00
...	<i>[Signature]</i>
...	14-11-2017
...	14-11-2017

c-t-c
[Signature]

بعدالت سرس کر بیونل شاہ و شیر کو سٹووا۔

کورت فیس	قیمت ایک روپیہ
----------	----------------

22 مئی 18

شیر شاہ بنام گورنمنٹ و سٹووا

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی کو متعلقہ آن مقام سرس کر بیونل سڈے شمس الہا د کا اڈر و سرس کر کو مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہا گا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا ک سندر ہے

شیر شاہ و لہر شمولان
15601-6846464-9

المرقوم 22 ماہ صی 18

العبد گواہ شدہ العبد
 کے لئے منظور ہے
 شمس کر بیونل
 Attested and accepted by
 Shams-ul-Haquli Adl.



OFFICE OF THE DISTRICT EDUCATION OFFICER (M) KOHISTAN

OFFICE ORDER.

Whereas Mr. Sher Shah Ex-DM GMS Sumar Nalla Tehsil Dassu District Kohistan submitted his service, appeal No.529/2016 Dated 19-05-2016 before Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar. The Honorable Service Tribunal Peshawar accepted his appeal, the appellant was Re-Instated into service and the case was returned to Department for denovo proceeding/enquiry in accordance with the rules as per judgment announced on 08-11-2017.

Whereas the Department submitted the case to law Department for getting opinion for filling CPLA.

Whereas the meeting of the scrutiny committee was held on 17-01-2018 in the office of Additional Secretary (opinion) law department. It was decided with consensus by the scrutiny committee that the subject case was not fit for CPLA and the Department was advised to conduct denovo enquiry against the appellant vide No. So (Lit/LD/9-5(4) ESED /2018/2928-3 WE Dated 22-01-2018.

Whereas worthy Director appointed Mr, Ali Nawaz Khan Principal GHSS No. 2 Mansehra as inquiry officer for denovo inquiry vide. No. 5639/F.No.34/KC/Denovo inquiry dated 23/1/2018. Inquiry officer submitted his report with the recommendation that there is 18 years long service on his part, hence on humanitarian ground if the rules allow under the circumstances, the major penalty of removal from service may be converted into compulsory retirement from his service vide enquiry letter No. 980 dated 10/04/2018.

Now, therefore, on the recommendation of inquiry officer conducted denovo inquiry and report submitted in this office vide No. 980 dated 10/04/2018, being a competent authority as (District Education Officer (M) Kohistan) under Govt: of Khyber Pakhtunkhwa, efficiency and disciplinary rule 2011 (Rule 4b (ii) vide notified E&AD No. SO (REG-VI) E&AD/2-6/2010 dated 16/9/2011 is pleased to convert Major penalty i.e Removal from Service in to compulsory Retirement w.e.f 04-08-2018 and the intervening period w.e.f 22/01/2016 to 03/08/2018 is converted in to extra ordinary leave without pay.


**District Education Officer
(Male) Kohistan.**

Endst: No. 5947-54/DEO (M) KH Dated Dassu the 08/08 /2018

Copy of the above is forwarded to the:-

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Advocate General Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Kohistan.
4. Deputy District Education Officer (M) Kohistan.
5. District Accounts Officer, Kohistan.
6. ADEO (Litigation) Local Office.
7. PA to DEO (M) Kohistan.
8. Official Concerned


**District Education Officer
(Male) Kohistan.**

بعد ازاں جناب سرورس سرگرمیوں کی پیشکش

مکتوبان سے متعلقہ سرگرمیوں کی حکومت

درخواست برآمد عطا کی گئی

یہ کہ سائل جب زبیل کے ضمن رسالہ

یہ کہ صدر مکتوبان بلا آپ کی محلات حضور میں درسیات ہے

جس میں ایک تاریخ میں صورت کار ہے
1/2019

اس میں سائل کو *Pheta* کی شکل پائی کی ضرورت ہے
0000 sheets

لینا ایک صاحبان میراں سرگرمیوں کی شکل پائی کی اجازت
قرضاً

Allowed.

11/12/18

11/12/18

11/12/18

288

03159123315

200

200
August

کدورت صاحب، صاحب، مدد سے لکھنؤ

عنوان: درخواست برائے عفو و مغفرت
شہرستانہ پنج صوبہ

Execution Pet. لا خود جانے نذر اس کے لئے کو مقدم
میں صبح افروغی صدر نقل عنایت و فائدہ و سکون و فادوس

(Signature)

12/12/18

تورم

گھر عفو و فادوس

Attendant as per ruler.

(Signature)
12/12/18

Copy

کیونکہ جناب رفیق از سر و سر میں ڈاکٹر اور مل لیا ہے

محمد نبی از ایجوکیشن

اپریل 1375-1377

درخواست عطا کی ہے فقیر فقیر

جناب عالی :- ساتھ ساتھ حسب ذیل
قرآن رسالہ ہے

1۔ یہ کہ فقیر / اپریل بالہ عدالت

فقیر سے مورخ 18-12-7 کو
فقیر احمد حسن ٹرنڈی DP محمد نبی
سرور سے ڈاکٹر ایجوکیشن لیا اور

فقیر سے یہ ہے
2۔ یہ کہ ساتھ ساتھ کو فقیر بالہ
کے فقیر کے اسٹریٹوریٹ

مورخ 12-11-2018
لینا اس کے ساتھ ساتھ
کو فقیر کے کا ہے
کا ہے

ساتھ ساتھ مورخ لکھنؤ ایجوکیشن